IN THE HIGH COURT OF JUDICTURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Chagan Vs. State of Rajasthan & Ors.

S.B. CIVIL WRIT PETITION NO. 3073/2007

Date of Order: May 25, 2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Ravindra Singh, for the petitioners.

BY THE COURT:

By the instant writ petition, the petitioner has challenged his retrenchment from service in violation of the provisions of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947 (for short, "the I.D. Act" hereinafter).

Since the petitioner has alternative remedy which is efficacious in nature provided by the Statute under the I.D. Act before the Industrial Disputes Tribunal and Labour Court, without availing the alternative remedy available under the statute, the petitioner has straight-way filed the instant writ petition under

Article 226 of the Constitution of India, which cannot be entertained on the ground of availability of the alternative remedy to him, as held by a Constitution Bench of this Court in Gopi Lal Teli & ors. Vs. State of Rajasthan, **1995 (1) RLR 1,** wherein it was held as under:

> "The Industrial Disputes Act, 1947, which is a special statute has been enacted by the Parliament for settling the industrial disputes through conciliation and if not possible, then by the Tribunals constituted under the Act, and also to reduce the field of conflict between the employer and the employees in order to increase the industrial growth of the country. The Act is a self contained code and provides complete procedure, even machinery has been provided for recovering the money due from the employer to the employee under section 33-C of the Act. In our opinion even where the question is raised as to whether the principles of natural justice have been complied with before passing the impugned order or not, is also a question of fact which requires investigation. Similarly, the question as to whether the order is without jurisdiction is also essentially a question of fact and requires investigation before reaching a conclusion and that investigation or enquiry in our opinion is normally beyond the scope of Article 226 of the Constitution of India and these questions can be suitably agitated and adjudicated upon by the authorities constituted under the Act, on the basis of evidence adduced by the parties."

In this view of the matter, the writ petition stands dismissed on the ground of availability of alternative remedy. The petitioner may approach the Appropriate State Government for making a reference within one month and the State Government is requested to refer the same to the Labour Court for adjudication if approached by the petitioner. There shall be no order as to costs.

(H.R. PANWAR), J.

m.asif/-